

DEFENSE LOGISTICS AGENCY
AMERICA'S COMBAT LOGISTICS SUPPORT AGENCY

DLA Land AND Maritime

**A Pricing Perspective on
the 8(a) Program**

Hoa Ta

**Contract Cost/Price Analyst
DLA Land and Maritime**

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What is it?



8(a) Program



- A small disadvantaged developmental program.
- Mandated by Congress and administered by the Small Business Administration (SBA)
- Created by the Small Business Act of 1958



Regulations...

USC

CFR

FAR

DFARS

DLAD



8(a) Program



CFR (Code of Federal Regulations)

The purpose of the 8(a) BD program is to assist eligible small disadvantaged business concerns compete in the American economy through business development

§ 124.501 What general provisions apply to the award of 8(a) contracts?

(a) Pursuant to section 8(a) of the Small Business Act, SBA is authorized to enter into all types of contracts with other Federal agencies, including contracts to furnish equipment, supplies, services, leased real property, or materials to them or to perform construction work for them, and to contract the performance of these contracts to qualified Participants. Where practicable, simplified acquisition procedures should be used for 8(a) contracts at or below the simplified acquisition threshold. Where appropriate, SBA will delegate the contract execution function to procuring activities. In order to receive and retain a delegation of SBA's contract execution and review functions, a procuring activity must report all 8(a) contract awards, modifications, and options to SBA.



8(a) Program Participant Requirements



- Socially disadvantaged person subjected to racial or ethnic prejudice and cultural bias (physical impairment included)
and
- Economically disadvantaged person denied access to capital and credit based on social disadvantages



8(a) Program Set-Aside Requirements



1. Company must be a current 8(a) program participant (only one-9 year term)
2. Capabilities must match the requirement
3. Own 51% of the business
4. Be a United States citizen
5. Must qualify as a small business and in good standings
6. Must have been in business two years prior to applying (Native



8(a) Program Set-Aside Requirements



7. SBA certifies small businesses into the program
8. SBA must accept the requirement for the 8(a) program (over Simplified Acquisition Threshold (SAT) for DoD actions)
9. Award price cannot exceed Government's established Fair Market Price (FMP)



Fair Market Price???



More Regulations...



FAR 19.806 - Pricing the 8(a) Contract

- a) The contracting officer shall price the 8(a) contract in accordance with Subpart 15.4.
- b) An 8(a) contract, sole source or competitive, may not be awarded if the price of the contract results in a cost to the contracting agency which exceeds a fair market price.



More Regulations...



FAR 19.807 – Estimating Fair Market Price

- a) The contracting officer shall estimate the fair market price of the work to be performed by the 8(a) contractor
- b) In estimating the fair market price for an acquisition other than those covered in paragraph (c) of this section, the contracting officer shall use cost or price analysis and consider commercial prices for similar products and services, available in-house estimates, data (including certified cost or pricing data) submitted by the SBA or the 8(a) contractor, and data obtained



More Regulations...



- c) In estimating a fair market price for a repeat purchase, the contracting officer shall consider recent award prices for the same items or work if there is comparability in quantities, conditions, terms, and performance items. The estimated price should be adjusted to reflect differences in specifications, plans, transportation costs, packaging and packing costs, and other circumstances. Price indices may be used as guides to determine the changes in labor and material costs. Comparison of commercial prices for similar items may also be used.



More Regulations...



DLAD 19.807-90 – Estimating Fair market Price

- a) A Fair market Price (FMP) is one which the Government can be expected to pay in a competitive environment, in the current open market place.



More Regulations...



DLAD 19.807-90 – Estimating Fair market Price (cont..)

Although use of previous competitive award prices is the required method of determining FMP, whenever applicable, nothing in this directive shall preclude consideration of the unique factors of an individual acquisition or the application of another method of determining FMP, provided that the file clearly documents the reasonableness of the chosen approach.



More Regulations...



DLAD 19.807-90 – Estimating Fair market Price (cont..)

Previous section 8(a) award prices may be used to determine the current FMP **only when** a suitable previous competitive price is not available; and when the previous FMP was established in accordance with FAR and DLAD guidelines.



More Regulations...



DLAD 19.807-90 - Estimating Fair market Price (cont..)

Once the FMP is established... it will be the highest price that DLA will pay (in a 8(a) set-aside), except when a revised FMP, established within the FAR and DLAD guidelines, is fully supported and documented by the contracting officer.



So how is the Fair Market Price Calculated???



FMP calculations



- The most highly utilized methods here at DLA Land and Maritime is:
 - Competitive History
 - Should Cost
 - Certified Cost or Pricing Data (if procurement reaches threshold or required by the Head of Contracting Agency)
- The contracting officer has full latitude in what method to utilize in determining the FMP as long the rationale is documented in the file.



FMP calculations



- Competitive History
 - This is the most preferred method to estimate the FMP
 - In accordance to the FAR and DLAD
 - A recent competitive procurement is the most ideal
 - An adjustment for market and inflationary conditions is provided by the use of Bureau of Labor Statistics indexes
 - An adjustment for purchase quantity is also provided



FMP calculations



- Should Cost
 - Is an estimate on how much the items is estimated to cost to manufacturer based on review of the Technical drawings.
 - DLA Land and Maritime utilizes Technical Professionals in house to estimate the “Should Cost”



FMP calculations



- Certified Cost or Pricing Data
 - If the procurement exceeds \$700k
 - The 8(a) contractor will provide Certified Cost or Pricing data to be reviewed



Recommendations



Recommendations



- Review the purchase history of the item. Chances are that will be the most likely scenario on how the FMP will be calculated.
- Procurement history of the item is available on the solicitation.
 - There are other sources available to contractors to obtain item purchase history.



Recommendations



- What happens if you can not meet the FMP?
 - Talk to the Contracting Officer to see if there is negotiation room
 - If the Contracting Officer cannot adjust the FMP based on current conditions then the solicitation will be re-issued as a Small Business Set-Aside. You are still allowed to quote on the new solicitation.



Recommendations



- Work with the Small Business Specialist
 - This is important!!!
 - The DLA Small is Business Office is your friend and serves as the conduit between you and the contracting officer
 - They can also help identify potential 8(a) opportunities



Questions???